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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SAM BENFORD,

Plaintiff,

vs.

PIER AVENUE LLC; and DOES 1 to 10,  
Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR DENIAL  
OF CIVIL RIGHTS OF A DISABLED  
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES;
2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT;
3. CALIFORNIA'S DISABLED  
PERSONS ACT;
4. CALIFORNIA HEALTH & SAFETY  
CODE;
5. NEGLIGENCE

Plaintiff SAM BENFORD ("Plaintiff") complains of Defendants PIER AVENUE  
LLC; and DOES 1 to 10 ("Defendants") and alleges as follows:

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**PARTIES**

1  
2 1. Plaintiff is a California resident with a physical disability. Plaintiff is  
3 hemiplegic due to stroke, and requires the use of a wheelchair at all times when traveling  
4 in public.

5 2. Defendants are, or were at the time of the incident, the real property owners,  
6 business operators, lessors and/or lessees of the real property for a gift shop (“Business”) located at or about 238 Pier Ave., Hermosa Beach, California.

7  
8 3. The true names and capacities, whether individual, corporate, associate or  
9 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
10 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
11 Court to amend this Complaint when the true names and capacities have been  
12 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such  
13 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
14 Plaintiff for the acts herein alleged.

15 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
16 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
17 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
18 the things alleged herein was acting with the knowledge and consent of the other  
19 Defendants and within the course and scope of such agency or employment relationship.

20 5. Whenever and wherever reference is made in this Complaint to any act or  
21 failure to act by a defendant or Defendants, such allegations and references shall also be  
22 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
23 and severally.

24 **JURISDICTION AND VENUE**

25 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
26 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
27 *seq.*)  
28





1 otherwise treated differently than other individuals because of the  
2 absence of auxiliary aids and services, unless the entity can  
3 demonstrate that taking such steps would fundamentally alter the  
4 nature of the good, service, facility, privilege, advantage, or  
5 accommodation being offered or would result in an undue burden. 42  
6 U.S.C. § 12182(b)(2)(A)(iii).

7 c. A failure to remove architectural barriers, and communication barriers  
8 that are structural in nature, in existing facilities, and transportation  
9 barriers in existing vehicles and rail passenger cars used by an  
10 establishment for transporting individuals (not including barriers that  
11 can only be removed through the retrofitting of vehicles or rail  
12 passenger cars by the installation of a hydraulic or other lift), where  
13 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

14 d. A failure to make alterations in such a manner that, to the maximum  
15 extent feasible, the altered portions of the facility are readily  
16 accessible to and usable by individuals with disabilities, including  
17 individuals who use wheelchairs or to ensure that, to the maximum  
18 extent feasible, the path of travel to the altered area and the  
19 bathrooms, telephones, and drinking fountains serving the altered  
20 area, are readily accessible to and usable by individuals with  
21 disabilities where such alterations to the path or travel or the  
22 bathrooms, telephones, and drinking fountains serving the altered  
23 area are not disproportionate to the overall alterations in terms of cost  
24 and scope. 42 U.S.C. § 12183(a)(2).

25 21. At least one accessible route shall connect accessible building, facilities,  
26 elements, and spaces that are on the same site. 1991 ADA Standards § 4.3.2. A public  
27 accommodation shall maintain in operable working condition those features of facilities  
28

1 and equipment that are required to be readily accessible to and usable by persons with  
2 disabilities by the Act or this part. 28 C.F.R. 35.211(a).

3 22. Here, Defendants failed to provide at least one accessible entrance for the  
4 Business as they only had stairs for the entrance other than a ramp that only reaches  
5 halfway to the entrance.

6 23. By failing to maintain the facility to be readily accessible and usable by  
7 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related  
8 regulations.

9 24. The Business has denied and continues to deny full and equal access to  
10 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
11 discriminated against due to the lack of accessible facilities, and therefore, seeks  
12 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
13 by individuals with disabilities.

## 14 **SECOND CAUSE OF ACTION**

### 15 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

16 25. Plaintiff incorporates by reference each of the allegations in all prior  
17 paragraphs in this complaint.

18 26. California Civil Code § 51 states, "All persons within the jurisdiction of this  
19 state are free and equal, and no matter what their sex, race, color, religion, ancestry,  
20 national origin, disability, medical condition, genetic information, marital status, sexual  
21 orientation, citizenship, primary language, or immigration status are entitled to the full  
22 and equal accommodations, advantages, facilities, privileges, or services in all business  
23 establishments of every kind whatsoever."

24 27. California Civil Code § 52 states, "Whoever denies, aids or incites a denial,  
25 or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable  
26 for each and every offense for the actual damages, and any amount that may be  
27 determined by a jury, or a court sitting without a jury, up to a maximum of three times the  
28 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any

1 attorney's fees that may be determined by the court in addition thereto, suffered by any  
2 person denied the rights provided in Section 51, 51.5, or 51.6.

3 28. California Civil Code § 51(f) specifies, "a violation of the right of any  
4 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)  
5 shall also constitute a violation of this section."

6 29. The actions and omissions of Defendants alleged herein constitute a denial  
7 of full and equal accommodation, advantages, facilities, privileges, or services by  
8 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
9 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
10 51 and 52.

11 30. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
12 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
13 damages as specified in California Civil Code §55.56(a)-(c).

### 14 **THIRD CAUSE OF ACTION**

#### 15 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

16 31. Plaintiff incorporates by reference each of the allegations in all prior  
17 paragraphs in this complaint.

18 32. California Civil Code § 54.1(a) states, "Individuals with disabilities shall be  
19 entitled to full and equal access, as other members of the general public, to  
20 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
21 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,  
22 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
23 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
24 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
25 places of public accommodations, amusement, or resort, and other places in which the  
26 general public is invited, subject only to the conditions and limitations established by  
27 law, or state or federal regulation, and applicable alike to all persons.

33. California Civil Code § 54.3(a) states, “Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages, and any amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 54, 54.1, and 54.2.

34. California Civil Code § 54(d) specifies, “a violation of the right of an individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also constitute a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

35. The actions and omissions of Defendants alleged herein constitute a denial of full and equal accommodation, advantages, and facilities by physically disabled persons within the meaning of California Civil Code § 54. Defendants have discriminated against Plaintiff in violation of California Civil Code § 54.

36. The violations of the California Disabled Persons Act caused Plaintiff to experience difficulty, discomfort, and embarrassment. The Defendants are also liable for statutory damages as specified in California Civil Code §55.56(a)-(c).

#### **FOURTH CAUSE OF ACTION**

##### **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

37. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

38. Plaintiff and other similar physically disabled persons who require the use of a wheelchair are unable to use public facilities on a “full and equal” basis unless each such facility is in compliance with the provisions of California Health & Safety Code §

1 19955 et seq. Plaintiff is a member of the public whose rights are protected by the  
2 provisions of California Health & Safety Code § 19955 et seq.

3 39. The purpose of California Health & Safety Code § 1995 et seq. is to ensure  
4 that public accommodations or facilities constructed in this state with private funds  
5 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of  
6 Title 1 of the Government Code. The code relating to such public accommodations also  
7 require that “when sanitary facilities are made available for the public, clients, or  
8 employees in these stations, centers, or buildings, they shall be made available for  
9 persons with disabilities.

10 40. Title II of the ADA holds as a “general rule” that no individual shall be  
11 discriminated against on the basis of disability in the full and equal enjoyment of goods  
12 (or use), services, facilities, privileges, and accommodations offered by any person who  
13 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).  
14 Further, each and every violation of the ADA also constitutes a separate and distinct  
15 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an  
16 award of damages and injunctive relief pursuant to California law, including but not  
17 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

18 **FIFTH CAUSE OF ACTION**

19 **NEGLIGENCE**

20 41. Plaintiff incorporates by reference each of the allegations in all prior  
21 paragraphs in this complaint.

22 42. Defendants have a general duty and a duty under the ADA, Unruh Civil  
23 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
24 to the Plaintiff.

25 43. Defendants breached their duty of care by violating the provisions of ADA,  
26 Unruh Civil Rights Act and California Disabled Persons Act.

27 44. As a direct and proximate result of Defendants’ negligent conduct, Plaintiff  
28 has suffered damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;
2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;
3. Award of all reasonable restitution for Defendants' unfair competition practices;
4. Reasonable attorney's fees, litigation expenses, and costs of suit in this action;
5. Prejudgment interest pursuant to California Civil Code § 3291; and
6. Such other and further relief as the Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: May 27, 2022

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim  
Jason J. Kim, Esq.  
Attorneys for Plaintiff